

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JOSE MORALES GONZALEZ,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:20-cv-01146-SAB

ORDER DISCHARGING ORDER TO  
SHOW CAUSE AND DIRECTING CLERK  
OF THE COURT TO CLOSE CASE AND  
ADJUST DOCKET TO REFLECT  
VOLUNTARY DISMISSAL

(ECF Nos. 4, 5)

On August 17, 2020, Jose Morales Gonzalez (“Plaintiff”) filed this action seeking judicial review of the final decision of the Commissioner of Social Security’s decision denying his application for benefits. On September 11, 2020, an order issued requiring Plaintiff to show cause why this action should not be dismissed for the failure to comply with an order requiring him to file a long form application to proceed without prepayment of fees or to pay the filing fee. On this same date, Plaintiff filed a notice of voluntary dismissal with prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

“[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.’ ” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet

1 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th  
2 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,  
3 the parties are left as though no action had been brought, the defendant can’t complain, and the  
4 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193  
5 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.  
6 Therefore, Plaintiff’s voluntary dismissal has terminated this action.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The September 11, 2020 order to show cause is VACATED;
- 9 2. The Clerk of the Court is directed to assign a district judge to this case for the  
10 purpose of closing the case; and
- 11 3. The Clerk of the Court is directed to adjust the docket to reflect voluntary  
12 dismissal of this action pursuant to Rule 41(a).

13 IT IS SO ORDERED.

14 Dated: September 11, 2020

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17 UNITED STATES MAGISTRATE JUDGE  
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